HOUSE OF THE PEOPLE

THE TEA BILL, 1952

(Report of the Select Committee)

PARLIAMENT SECRETARIAT
NEW DELHI
February, 1953

Reports of Select Committees Presented to Parliament in - 1953.

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S. No.	Name of Bill	Date of Presentation	Date of Publication in the Gazette.
.	The Tea Bill.	14th-2-53	19.2.53
.	The Food Adulteration Bill	16-2-53	19-2-53
.	The Estate Duty Bill	31-3-53	10-4-53
.	The Industries (Development and Regulation) Amendment Bill.	29-4-53	29-4-53
.	The A ir Corporations Bill	30.4.53	30.4.53
.	The Representation of the People (Amendment) Bill, 1955	-	-

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THE TEA BILL, 1952

Members of the Select Committee

Shri T. T. Krishnamachari—*Chairman.*
Shri A. K. Basu
Shri Upendranath Barman
Shri Kamakhya Prasad Tripathi
Prof. Nibaran Chandra Laskar
Shri Debeswar Sarmah
Shri Bhakt Darshan
Shri R. Venkataraman
Shri G. R. Damodaran
Shri Nageshwar Prasad Sinha
Shri Hem Raj
Shri N. M. Lingam
Shri H. Siddananjappa
Shri Bhagwat Jha Azad
Shri P. T. Chacko
Shri N. C. Chatterjee
Shri Hirendra Nath Mukerjee
Shri Hari Vinayak Pataskar
Shri Jaipal Singh
Shri Tridib Kumar Chaudhuri
Shri K. Kelappan
Shri Rayasam Seshagiri Rao
Shri Purnendu Sekhar Naskar
Shri Dev Kanta Borooah
Shri T. Subramanyam
Shri D. P. Karmarkar.

Report of the Select Committee

The Select Committee to which the Bill to provide for the control by the Union of the Tea industry and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India, was referred, have considered the Bill and I now submit this their report with the Bill as amended by the Committee annexed hereto.

1. Upon the changes proposed in the Bill which are not formal or consequential, the Select Committee note as follows:—

Long title.—The Select Committee have amended the long title of the Bill in order to show that control of the tea industry in some respects is also necessary under the International Tea Agreement.

Clause 3.—Besides making some consequential and formal amendments the Select Committee have omitted the definition of "grower" as unnecessary and have recast the definition of "tea" in order to bring it in line with the international definition.

Clause 4.—As the Tea Board will work under the general control and supervision of the Central Government, the Select Committee feel that there is no need for the Central Government to be represented on the Board; but it is felt at the same time that the Board should be apprised of the views of the Central Government before taking any decision. Hence the Select Committee have deleted item (g) of sub-clause (3) and have provided in new sub-clause (5) that any officer deputed by the Central Government shall be entitled to take part in the proceedings of the Board but shall not be entitled to vote. The Select Committee recommend that provision should be made in the rules for deputing officers of the Ministries of Finance, Commerce and Industry and Railways to attend meetings of the Board. The Select Committee have also deleted item (i) of sub-clause (3) as they feel that interests of commerce and industry have already been provided for elsewhere in this clause. With a view to widen the scope of choice the Select Committe have amended item (j) of sub-clause (3).

Clause 9.—The Select Committee while agreeing to leave this clause as it is, recommend that provision should be made in the rules for associating with the Board a member of the Union Public Service Commission or of the appropriate State Public Commission at the time of selecting officers drawing a salary of Rs. 350 or above but below Rs. 1,000 per month.

Clause 10.—The Select Committee have recast this clause from the drafting standpoint.

Clause 11.—The Select Committee are of the view that provisions should be made for the Board to be reconstituted after dissolution. The Select Committee have accordingly re-drafted this clause.

Clause 14.—The Select Committee feel that the proviso to sub-clause (3) was unduly restrictive and that the distinction contemplated in that proviso between a limited liability company and an individual proprietor should go and have accordingly deleted the proviso. The Select Committee, however, recommend that the rules under the Act should provide that previous approval of the Central Government should be obtained before granting permission in a case where the area planted with tea exceeds 500 acres.

Clause 17.—The Committee feel that there should be a general clause dealing with appeals not only against orders under clauses 14 and 15 but also against orders under clause 20. The Select Committee have accordingly omitted this clause and have inserted new clause 32.

Clause 21.—The Select Committee feel that tea estates and gardens which have gone out of production for more than two years should not be granted any export quotas. It was agreed by the Committee that provisions to this effect should be made in the rules.

Clause 26 (*old clause* 27).—The Select Committee have re-drafted this clause in order to market it consistent with the existing legal and constitutional position.

Clause 30 (*old clause* 31).—The Select Committee feel that in order to exercise effective control over the tea industry the Central Government should have power to control not only prices but also distribution of tea. The Select Committee have accordingly recast this clause.

Clause 32 (*new*).—The Select Committee have inserted this new clause providing for appeals against the orders of the Board under sections 14, 15 and 20.

Clause 35.—The Select Committee feel that no export quota should be allotted to a contumacious tea estate owner and that besides tea estate owners, manufacturers, brokers and dealers also should be required to furnish returns. The Select Committee have amended this clause accordingly.

Clause 41 (*new*).—The Select Committee have inserted this new clause to provide for penalty for contravention of orders relating to control of price and distribution.

Clause 49 (*old clause* 48).—Besides making some minor and consequential changes in this clause the Select Committee have inserted new sub-clause (3) providing for the laying of the rules before both Houses of Parliament.

2. The Select Committee have considered the amendments proposed by a member to provide for investigation into the affairs of any mis-managed tea estate to give directions to the owners and managers of estates for the better administration of such estates and for the taking over of the direct control and management thereof, if and when necessary, on the lines of sections 15, 16 and 17 of the Industries (Development and Regulation) Act. This question was discussed at length and it was felt that the analogous provisions of the Industries Act would not be suitable for application in the case of tea gardens. A majority of members of the Committee were, however, of the view that Government should have some powers to deal with estates which are mismanaged over a period of time and recommended that Government should take steps to introduce legislation to that end at an early date.

3. The Bill was published in Part II, section 2 of the *Gazette of India*, dated the 27th December, 1952.

T. T. KRISHNAMACHARI,
Chairman of the Select Committee.

NEW DELHI ;
The 14th February, 1953.

MINUTES OF DISSENT

I

While agreeing generally with the Bill as amended by the Select Committee I wish to append this note of dissent.

2. Clause 4(3) makes provision for the representation on the Tea Board, of the different interests involved. I feel that the small garden owners and growers as well as the small traders must receive adequate representation. So also those who represent the employees must be active members of the labour union with the largest membership. This clause therefore requires suitable amendment.

3. Clause 10, sub-clause (2)(j) should be amended to ensure living wage for the labourers.

4. Clause 11 makes provision for the dissolution of the Board. It must be made clear that the dissolution will not adversely affect the interests of the staff and other employees.

5. Clause 51(3) while providing for the retention of all officers and employees of the Indian Tea Licensing Committee and the Central Tea Board when this Act takes their place, does not guarantee that their conditions of service, pay, allowances etc., will be maintained. One may admit that changes in the administrative staff may become necessary in the new set-up, but there is no reason why the employees should be considered as new entrants or their service and scale of pay should not be maintained.

6. One other matter I wish to point out is that for the effective implementation of this Act it may become necessary for the Government to take over the management of estates which contravene the provisions of the Act. Unless powers are taken in this Act itself to deal with such a contingency some of the important provisions of this Act will remain otiose. Therefore a clause should be added empowering the Government to take over the administration of estates whose management proves recalitrant.

K. KELAPPAN.

NEW DELHI ;
The 14th February, 1953.

II

We regret to have to append this Note of Dissent from our colleagues on the Select Committee on the points stated below.

2. We feel there should be a proviso to clause 4(3) (a) in order to ensure that there is a majority of our own nationals in the category of "owners of tea estates and gardens and growers". This is necessary, we believe, in view of the present posture of our tea industry which is dominated by foreign interests.

3. In regard to clause 4(3) (b) we are of opinion that among appointees of Government in that category there should be at least one representative each nominated by the four principal all India organisations of the working class which are active in the Tea Garden areas, *viz.*, the All India Trade Union Congress, the Indian National Trade Union Congress, the Hind Mazdoor Sabha and the United Trades Union Congress. It is

common knowledge that in most tea estates and gardens there prevails, unfortunately, a state of things which is a negation of civil liberties, and specially of trade union rights. Workers and employees are generally subjected to conditions that are very like feudal terror and cannot always champion their own interests as effectively as they might wish to, because of the ever-present fear of victimisation, assault and other forms of physical and moral coercion. For the time being, therefore, they require a certain amount of assistance from organisations we have mentioned above, which are accepted by our working class as their accredited spokesmen. The said four organisations were invited by the Government of India to the Tripartite Conference on the tea industry held lately in Calcutta and can very well be expected to uphold the real interests of those employed in tea estates and gardens and to fight the atmosphere of intimidation and demoralisation which weigh so heavily on tea garden workers. If in any number of statutes, Chambers of Commerce and Industry can find mention, there can be, we are convinced, no insuperable objection to the specific inclusion in the Bill of specific provisions for the representation of trade union organisations.

4. We suggest that in clause 4(3) (d) after the words "internal traders", the words "including small traders" be put in. These small traders have, as Government knows, their own organisation and feel very much in danger of being swamped by bigwigs in the trade. They require, and we may add deserve, special assistance particularly in the context of the present crisis.

5. Clauses 11 and 51(3) require, in our view, some amendment in order to ensure that persons now employed under the Board may be protected in respect of their continuity and conditions of service, *e.g.* pay, promotion, prospects etc. If, as we were told, there are at present instances of undesirable appointments, Government has sufficient powers to deal with such cases, but a hypothetical premise of this sort should not be utilised for placing the future of the generality of employees in serious jeopardy. We do not fear that many of the posts now in existence will be found to be superfluous, because we expect that the work of the Board will expand and if anything, its staff will require augmentation.

6. Regarding the amendments, to which reference is made in paragraph 2 of the Report, we are of opinion that in spite of certain legalistic doubts about the tenability in the Bill of provisions vesting Government with the right of investigating cases of mismanagement, of giving necessary directions for better administration, and of taking over, in recalcitrant instances, of direct control and management of defaulting estates, such provisions should specifically be incorporated in the Bill. We think that the legal position may reasonably be expected to be clarified by the time this Bill becomes part of the law of the land. We wish, therefore, that instead of a mere recommendation to Government to introduce fresh legislation to that end at an early date, such provisions should form part of the Bill as we report it back to Parliament. We owe it, we feel, to the basic interests of the country in general and of the tea industry in particular, to stress this point.

HIRENDRA NATH MUKERJEE.
TRIDIB KUMAR CHAUDHURI.

NEW DELHI ;
The 14th February, 1958.

III

I regret I cannot accept Clause 84 without the deletion of the words "or any member or officer of the Board". I fear the "Power of inspection" might lend itself to abuse by members of the Board representing heterogeneous and even conflicting interests.

JAIPAL SINGH.

NEW DELHI ;

The 14th February, 1958.

Bill No. 130A of 1952

THE TEA BILL, 1952

(AS AMENDED BY THE SELECT COMMITTEE)

(*Words side lined or underlined indicate the amendment suggested by the Committee; asterisks indicate omissions.*)

A

BILL

to provide for the control by the Union of the tea industry, including the control, in pursuance of the International Agreement now in force, of the cultivation of tea in, and of the export of tea from India and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India.

E it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called he Tea Act, 1953.

(*2*) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the ontrol of the export of tea from, and the cultivation of tea in, India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Declaration as to expediency of control by the Union.—It is hereby declared that it is expedient in the public interest that the Union should ake under its control the tea industry.

3. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Tea Board constituted under section 4;

(*b*) "broker" means a broker of tea;

(*c*) "cess" means the customs-duty imposed by section 25;

(*d*) "Customs-collector" means a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878 (VIII of 1878) for the purposes of that Act, or of that Act as applied to the import and export of goods by air, or a Collector of Land Customs as defined in clause (*c*) of section 2 of the Land Customs Act, 1924 (XIX of 1924), as the case may be;

(*e*) "dealer" means a dealer in tea;

(*f*) "export" means to take out of India by land, sea or air to any place outside India other than a country or territory notified in this behalf by the Central Government by notification in the Official Gazette;

(*g*) "export allotment" means the total quantity of tea which may be exported during any one financial year;

(*h*) "Fund" means the Tea * Fund referred to in section 27;

* * * * *

(*i*) "manufacturer" means a manufacturer of tea;

(*j*) "member" means a member of the Board;

(*k*) "owner"—

(*i*) with reference to a tea estate or garden or a sub-division thereof the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists; and

(*ii*) with reference to a tea estate or a garden or a sub-division for which an agent is employed, means the agent if, and in so far as, he has been duly authorised by the owner in that behalf;

(*l*) "prescribed" means prescribed by rules made under this Act;

(*m*) "standard export figure" means such quantity as the Central Government may, by notification in the Official Gazette, specify pursuant to any international agreement in this behalf;

(*n*) "tea" means the plant *Theasinensis* as well as all varieties of the product known commercially as tea made from the leaves of the plant *Theasinensis* including green tea * * *;

(*o*) "tea seed" includes seeds, roots, stumps, cuttings, buds, and any living portion of the plant *Theasinensis* which may be used to propagate that plant.

CHAPTER II

The Tea Board

4. Establishment and constitution of the Tea Board.—(*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board to be called the Tea Board.

(*2*) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, sue or be sued by the said name.

(*3*) The Board shall consist of a Chairman and such number of other members not exceeding forty as the Central Government may think expedient, to be appointed by that Government by notification in the

Official Gazette from among persons who are in its opinion capable of representing,—

(*a*) owners of tea estates and gardens and growers of tea;

(*b*) persons employed in tea estates and gardens;

(*c*) manufacturers of tea;

(*d*) dealers including both exporters and internal traders of tea;

(*e*) consumers;

(*f*) Parliament;

* * * * *

(*g*) the Governments of the principal tea growing States;

* * * * *

(*h*) such other persons or class of persons, * * * who, in the opinion of the Central Government, ought to be represented on the Board.

(*4*) The number of persons to be appointed as members from each of the categories specified in sub-section (*3*), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling * vacancies among, the members of the Board shall be such as may be prescribed.

(*5*) Any officer of the Central Government when deputed by that Government in this behalf shall have the right to attend meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote.

5. Vacancies, etc., not to invalidate acts and proceedings.—No act done or proceeding taken by the Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

6. Salary and allowances of Chairman.—The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may from time to time be fixed by the Central Government.

7. Vice-Chairman.—The Central Government shall appoint from among the members of the Board a Vice-Chairman, who shall exercise such of the powers and discharge such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

8. Executive and other Committees.—(*1*) There shall be an Executive Committee of the Board constituted in the manner prescribed.

(*2*) The Executive Committee shall exercise such of the powers and perform such of the duties of the Board as may be prescribed, or as the Board may delegate to it.

(*3*) Subject to such control and restrictions as may be prescribed the Board may constitute other Standing Committees or *ad hoc* Committees for exercising any power or discharging any duty of the Board or for enquiring into or reporting and advising on any matter which the Board may refer to them.

(*4*) A Standing Committee shall consist exclusively of members of the Board.

(*5*) An *ad hoc* Committee may include persons who are not members of the Board, but their number shall not exceed one half of its strength.

9. Secretary and staff.—(*1*) The Central Government shall appoint—

(*a*) a Secretary to the Board who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman;

(*b*) all other officers of the Board drawing a salary of rupees one thousand or more per month.

(*2*) Subject to such control and restrictions as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions and pay them such salaries and allowances as it may determine from time to time.

(*3*) The Chairman, Secretary and other employees of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

10. Functions of the Board.—(*1*) It shall be the duty of the Board to promote by such measures as it thinks fit the development under the control of the Central Government of the tea industry.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the measures referred to therein may provide for—

(*a*) regulating the production and extent of cultivation of tea;

(*b*) improving the quality of tea;

(*c*) promoting co-operative efforts among growers and manufacturers of tea;

(*d*) undertaking, assisting or encouraging scientific, technological and economic research and maintaining or assisting in the maintenance of demonstration farms and manufacturing stations;

(*e*) assisting in the control of insects and other pests and diseases affecting tea;

(*f*) regulating the sale and export of tea;

(*g*) training in tea tasting and fixing grade standards of tea;

(*h*) increasing the consumption in India and elsewhere of tea and carrying on propaganda for that purpose;

(*i*) registering and licensing of manufacturers, brokers, tea waste dealers and persons engaged in the business of blending tea;

(*j*) improving the marketing of tea in India and elsewhere;

(*k*) collecting statistics from growers, manufacturers, dealers and such other persons as may be prescribed on any matter relating to the tea industry; the publication of statistics so collected or portions thereof or extracts therefrom;

(*l*) securing better working conditions and the provisions and improvement of amenities and incentives for workers;

(*m*) such other matters as may be prescribed.

(*3*) The Board shall perform its functions under this section in accordance with and subject to such rules as may be made by the Central Government.

11. Dissolution of the Board.—(*1*) The Central Government may, by notification in the Official Gazette, direct that the Board shall be dissolved from such date and for such period as may be specified in the notification.

(*2*) When the Board is dissolved under the provisions of sub-section (*1*)—

(*a*) all members shall, from the date of dissolution, vacate their offices as such members;

(*b*) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(*c*) all funds and other property vested in the Board shall, during the period of dissolution, vest in the Central Government; and

(*d*) as soon as the period of dissolution expires, the Board shall be reconstituted in accordance with the provisions of this Act.

CHAPTER III

CONTROL OVER THE EXTENSION OF TEA CULTIVATION

12. Method of control of extension of tea cultivation.—(*1*) No one shall plant tea on any land not planted with tea on the date of commencement of this Act unless permission has been granted to him in writing by or on behalf of the Board.

(*2*) No tea area shall be replaced by planting tea on area not planted with tea unless permission has been granted in writing by or on behalf of the Board.

(*3*) Nothing in this section shall prohibit the infilling or supplying of vacancies on land planted with tea on the date of commencement of this Act or the replanting of tea upon—

(*i*) land planted with tea on the 31st day of March, 1950, from which original bushes have been uprooted, or

(*ii*) land planted with tea on the 31st day of March, 1948, from which the original bushes have been uprooted.

13. Limitations to the extension of tea cultivation.—(*1*) Subject to the provisions contained in sections 15 and 16, the total area of land in respect of which the permission referred to in section 12 may be granted, shall not exceed such area as may be determined by the Board under the general instructions of the Central Government.

(*2*) The total area of land in any State in respect of which such permission may be granted shall be such as may be determined by the Board.

Provided that the Board may vary the total area so determined for any State in order to increase or diminish for another State the area in respect of which such permission may be granted by an amount corresponding to the extent to which the area in the first mentioned State has been diminished or increased.

(*3*) The Board shall publish the total area determined for India as well as the total areas determined for the various States by notification in the Official Gazette of the Central Government as soon as may be after the commencement of this Act and shall in like manner publish any subsequent variation of such total areas.

14. Grant of permission to plant tea.—(*1*) Applications for permission to plant tea on any land not planted with tea on the date of commencement of this Act shall be made to the Board and shall contain a clear statement of all special circumstances justifying the application.

(2) The Board may require an applicant to supply such information as it thinks necessary to enable the Board to deal with the application.

(3) Subject to such conditions and restrictions as may be prescribed, the Board may by order grant or refuse the permission applied for, or may in like manner grant it in part only or may call for further information from the applicant.

* * * * *

(4) No order by the Board under sub-section (3) shall be called in question by any court.

15. Grant of permission to plant tea in special circumstances.—(1) Where any land which was on the 31st day of March, 1933, planted with tea (including land planted with tea on the 31st day of March, 1931 from which the original bushes had been uprooted and which had not been replanted with tea on the said 31st day of March, 1933), or where any land planted with tea after the 31st day of March, 1933—

(a) has since become wholly incapable of carrying tea through circumstances due to war, or through subsidence, flood, erosion, earthquake or other irresistible superhuman cause, or

(b) has since been compulsorily acquired under the provisions of the Land Acquisition Act, 1894 (I of 1894), or of any other law for the time being in force and no longer carries tea, or

(c) has since been transferred to the Central or a State Government or to a local authority and no longer carries tea, or

(d) has since been resumed by the lessor under the terms of any lease and no longer carries tea,

the owner of the tea estate in which such land is situated may apply to the Board for permission to plant tea on land not planted with tea.

Explanation.—Land taken for purposes connected with the prosecution of war on which tea bushes have been allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this section to be incapable of carrying or no longer to carry tea.

(2) Upon such application being made and upon proof to the satisfaction of the Board that the applicant is entitled to the benefit of sub-section (1) the Board may by order grant permission to plant tea on land not planted with tea:

Provided that the area of land in respect of which such permission is granted shall be within the same or an adjacent district and shall belong to the same or an adjacent tea estate and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, transferred or resumed, as the case may be.

(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purpose of section 18 the total area of land in respect of which the permission referred to in section 12 may be granted.

(*4*) If any land falling within the *Explanation* to sub-section (*1*) is subsequently restored to the tea estate from which it was subtracted, the owner of the estate shall either uproot the tea planted thereon, or uproot any tea planted by him in pursuance of a permission granted under sub-section (*2*).

16. Tea nurseries.—(*1*) The owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for infilling or supplying vacancies or for replanting land planted with tea within the area of the estate or for any other purpose approved by the Board.

(*2*) All areas of land utilised for nurseries in accordance with this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permissions referred to in section 12 may be granted.

* * * * *

CHAPTER IV

CONTROL OVER THE EXPORT OF TEA AND TEA SEED

17. Control of export of tea and tea seed.—(*1*) No tea shall be exported unless covered by a licence issued by or on behalf of the Board.

(*2*) No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.

(*3*) No tea or tea seed shall be taken by land, sea or air out of any State to any of the French or Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.

18. Tea or tea seed for export to be covered by licence or permit.—(*1*) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case may be, covering the quantity to be shipped.

(*2*) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage (or shall be taken by land or air) to any of the French or Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Board covering the quantity to be shipped.

(*3*) No permit for the passage of any tea or tea seed by land into any of the French or Portuguese Settlements bounded by India shall be granted under sub-section (*1*) of section 5 of the Land Customs Act, 1924 (XIX of 1924), unless the application for such permit is accompanied by a permit granted in this behalf by the Board covering the quantity to be passed.

19. Export allotment.—The Central Government shall, after consulting the Board and paying due regard to all interests concerned and to the standard export figure, declare, by notification in the Official Gazette, the export allotment for each financial year:

Provided that the Central Government may by subsequent notification at any time during the financial year alter the export allotment and thereupon the export allotment as so altered shall be the export allotment for that year.

20. Export quotas and licences.—(*1*) Subject to such conditions as may be prescribed, any tea estate or any sub-division of a tea-estate shall have the right to receive under this Act an export quota for each financial year.

(*2*) The export quota of a tea estate, or a sub-division of a tea estate that is, the total quantity of tea which may be exported by the owner of a tea estate or a sub-division of a tea estate during the financial year, shall be an amount determined by the Board in accordance with such principles as may be prescribed:

Provided that when an export allotment is altered under the provisions of section 19, the export quota shall be liable to be altered accordingly.

(*3*) The total of export quotas allotted to tea estates and to sub-divisions thereof at any time during any financial year shall not exceed the export allotment for the time being for that year.

21. Right to export licences.—(*1*) The owner of a tea estate or a sub-division of a tea estate to which an export quota has been allotted for any financial year shall have the right to obtain at any time export licences during that year to cover the export of tea upto the amount of the unexhausted balance of the quota, that is, upto the amount of the quota less the amount for which the export licences have already been issued against it.

(*2*) The right of the owner of a tea estate or a sub-division of a tea estate under this section may be transferred subject to such conditions as may be prescribed, and the transferee of any such right may again transfer the whole or any part of his right to the owner of a tea estate, or a sub-division of a tea estate but not to any other person:

Provided that nothing in this sub-section shall operate to restrict the issue of licences for the export of tea expressed to be sold with export rights.

(*3*) The owner of any tea estate or any sub-division of a tea estate to which an export quota has been allotted or any person to whom he has transferred his rights may at any time before the 21st day of March of the financial year to which the quota relates apply in writing to the Board for an export licence to cover the export of tea upto the amount of the unexhausted balance of the quota.

(*4*) Every licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid upto the end of the financial year in which it is issued:

Provided that, save as provided in section 22, the Board shall not issue any export licence after the end of the financial year in which the application for licence was made.

22. Special export licences.—(*1*) Where tea in respect of which an export licence has been or could have been granted under this Act has not been exported before the end of the financial year in which the licence was or could have been issued, the person to whom the licence was or could have been granted may, before the 14th day of April of the following financial year forward an application to the Board for a special export licence covering the same quantity of tea, and the Board shall, on receipt of the prescribed fee, if any, issue a special export licence accordingly.

(*2*) A person to whom a special export licence has been issued under sub-section (*1*) may transfer the special export licence with all the rights conferred thereby to a person or persons nominated by him, but a licence once so transferred shall not be further transferable.

(*3*) A special export licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid upto the 31st day of May of the financial year in which it was issued.

(*4*) The quantity of tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was or could have been issued under this Act.

(*5*) Notwithstanding anything contained in the foregoing sub-sections the Board may, with the general or special previous sanction of the Central Government refuse to issue a special export licence or postpone for so long as the Central Government may require the issue of any special export licence.

23. Board to maintain accounts of quotas.—(*1*) The Board shall maintain an account of every export quota showing, in addition to such other particulars as the Board may think fit, the licences issued against it and the unexhausted balance.

(*2*) Any owner of a tea estate or a sub-division of a tea estate shall be entitled, on payment of the requisite fee, to a copy of the account relating to his quota, certified in the manner laid down in the by-laws made by the Board.

24. Limitation of application of Chapter.—Nothing in this Chapter shall apply to tea—

(*a*) proved to the satisfaction of the Customs-collector to have been imported into India from any port outside India; or

(*b*) shipped as stores on board any vessel or aircraft in such quantity as the Customs-collector considers reasonable having regard to the number of the crew and passengers and length of the voyage on which the vessel or aircraft is about to depart; or

(*c*) exported by post in packages not exceeding three pounds *avoirdupois* in weight; or

(*d*) exported with the previous sanction of the Central Government, within the limits prescribed in this behalf, by a Red Cross Society or by any organisation for providing amenities for troops overseas; or

(*e*) taken as part of the personal luggage of a passenger.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

25. Imposition of a duty of customs on export of tea.—(*1*) **A duty of customs shall be levied and collected on all tea exported or taken outside India at such rate not exceeding two rupees per one hundred pounds as the Central Government may notify in the Official Gazette.**

(*2*) **The duties of customs levied under sub-section** (*1*) **shall be collected by such agencies and in such manner as may be prescribed.**

26. Payment of duties of customs to the Board.—The proceeds of the duties of customs shall first be credited to the Consolidated Fund of India, and the Central Government may thereafter, from time to time, pay to the Board from and out of such proceeds such sums of money as it may think fit after deducting the expenses of collection.

27. Constitution of Fund.—(*1*) There shall be formed a Fund to be called the Tea* Fund, and there shall be credited thereto—

(*a*) the proceeds of the duties of customs made over to the Board by the Central Government;

(*b*) all fees levied and collected in respect of licences, permits and permissions issued under this Act; and

(*c*) any other fee that may be levied and collected under this Act or the rules made thereunder.

(*2*) The Fund shall be applied towards meeting the expenses of the Board and the cost of the measures referred to in section 10.

28. Borrowing powers of Board.—Subject to such rules as may be made in this behalf, the Board shall have power to borrow on the security of the Fund or any other asset for any purposes for which the Fund may be applied.

29. Accounts and audit.—(*1*) The Board shall cause accounts to be kept of all moneys received and expended by it.

(*2*) The accounts shall be audited every year by auditors appointed in this behalf by the Central Government and such auditors shall disallow every item, which in their opinion is not authorised by the Act or any rule made or direction issued thereunder.

(*3*) The Board may, within three months from the date of communication to it of the disallowance of any item, as aforesaid, appeal against such disallowance to the Central Government whose decision shall be final.

CHAPTER VI

CONTROL BY THE CENTRAL GOVERNMENT

30. Power to control price and distribution of tea or tea waste.—(*1*) The Central Government may, by order notified in the Official Gazette, fix in respect of tea of any description specified therein—

(*a*) the maximum price or the minimum price or the maximum and minimum prices which may be charged by a grower of tea, manufacturer or dealer, wholesale or retail, whether for the Indian market or for export;

(*b*) the maximum quantity which may in one transaction be sold to any person.

(*2*) Any such order may for reasons to be specified therein—

(*a*) fix prices for such tea differently in different localities or for different classes of dealers, or for growers of tea or manufacturers;

(*b*) instead of specifying the price or prices to be charged, direct that price or prices shall be computed in such manner and by reference to such matters as may be provided by the order.

(3) The Central Government may, by general or special order—

(a) prohibit the disposal of tea or tea waste except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of the whole or a specified part of the stock of tea or tea waste at such prices and to such persons or class of persons or in such circumstances as may be specified in the order;

(c) regulate by licences, permits or otherwise the production, storage, transport or distribution of tea or tea waste.

(4) Without prejudice to the generality of the powers conferred by sub-sections (1) and (3), any order made thereunder may provide—

(a) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, tea or tea waste to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

(b) for such other matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search, of tea or tea waste in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents and the charging of fees therefor.

31. General control over acts and proceedings of the Board.—(1) All acts and proceedings of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

(3) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

32. Appeal to Central Government.—Any person aggrieved by an order of the Board under section 14, section 15 or section 20 may appeal to the Central Government within sixty days from the date thereof and the Central Government may cancel, modify or suspend any such order.

CHAPTER VII

MISCELLANEOUS

33. Licensing of brokers, tea manufacturers, etc.—The Central Government may whenever it thinks it necessary so to do, by notification in the Official Gazette require that no person shall on and from such date as may be specified in the notification engage himself as a broker, manufacturer or dealer in tea waste or engage himself in the business of blending tea except under and in accordance with the provisions of a licence issued by the Board in accordance with the rules made under this Act; and any person who on and after such date so engages himself without obtaining a licence issued by the Board shall be deemed to have contravened the provisions of this section.

34. Power of inspection.—Any person authorised in this behalf by the Central Government or by the Board or any member or officer of the Board may enter at all reasonable times any tea estate or any place or premises where tea or tea waste is stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the production, storage or keeping for sale of tea or tea waste.

35. Power of Board to call for returns.—(*1*) The Board may serve by post a notice upon the owner of any tea estate or any sub-division of a tea estate or upon his manager, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the production, sale and export of tea produced on the estate or to any other matter as it may deem necessary.

(*2*) Where the owner of any tea estate or any sub-division of a tea estate or his manager being required under sub-section (*1*) to furnish any return fails to furnish such return within the period specified in the notice or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true, the Board may refuse to allot an export quota to that estate or sub-division under section 20, or where an export quota has already been allotted, may cancel the unexhausted balance of that quota and refuse to issue any further export licences against that quota or recognise or give effect to any transfer of quota under section 21.

(*3*) The Board may serve by post a notice upon any manufacturer, broker, dealer or dealer in tea waste, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the manufacture, stock, purchase, sale or export of tea or tea waste as it may deem necessary.

36. Penalty for illicit export.—A breach of the provisions of sub-section (*1*) or sub-section (*2*) of section 18 shall be punishable as if it were an offence under item No. 8 of section 167 of the Sea Customs Act, 1878 (VIII of 1878), and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly.

37. Penalty for making false return.—Any person who being required by or under this Act to furnish any return fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

38. Penalty for obstructing an officer or member of the Board in the discharge of his duties and for failure to produce books and records.—Any person who—

(*a*) obstructs a member or officer of the Board or a person authorised in this behalf by the Central Government or by the Board in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, or

(*b*) having the control or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

39. Penalty for illicit cultivation.—Whoever knowingly plants tea or causes tea to be planted on any land in contravention of section 12 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.

40. Removal of tea planted without permission.—Where any person has been convicted of any offence under section 39, the convicting court may direct that the tea in respect of which the offence was committed shall be removed from the land within a specified time, and in the event of the order not being duly complied with, may cause the tea to be removed and may recover the cost from the person convicted as if it were an arrear of land revenue due on the tea estate on which the offence was committed.

41. Penalty for contravention of order relating to control of price and distribution.—(*1*) If any person contravenes any order made under sub-section (*1*) or sub-section (*3*) of section 30, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and the property in respect of which the order has been contravened or such part thereof as to the court may seem fit, shall be forfeited to the Central Government.

(*2*) Any person who attempts to contravene or abets the contravention of, any order under sub-section (*1*) or sub-section (*3*) of section 30 shall be deemed to have contravened that order.

42. Other penalties.—Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment for the contravention whereof has been provided for in sections 36, 37, 38, 39 and 41 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

43. Offences by companies.—(*1*) If the person committing an offence under this Act, or the rules thereunder is a company, every person, who at the time the contravention was committed was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act or the rules thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

44. Jurisdiction of courts.—No court inferior to that of a Presidency magistrate or a magistrate of the First Class shall try any offence punishable under this Act.

45. Previous sanction of Central Government for prosecution.—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

46. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

47. Power to delegate.—The Central Government may, by order notified in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority as may be specified therein.

48. Suspension of operation of Act.—(*1*) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers it necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent either indefinitely or for such period as may be specified in the notification the operation of all or any of the provisions of this Act.

(*2*) Where the operation of any provisions of this Act has under sub-section (*1*) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the Official Gazette.

49. Power of Central Government to make rules.—(*1*) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the constitution of the Board, the number of persons to be appointed as members from each of the categories specified in sub-section (*3*) of section 4, the term of office and the other conditions of service of, the procedure to be followed by, and the manner of filling * vacancies among, the members of the Board;

(*b*) the circumstances in which, and the authority by which members may be removed;

(*c*) the holding of a minimum number of meetings of the Board every year;

(*d*) the pay, allowances and other conditions of service of the Secretary and other officers appointed by the Central Government;

(*e*) the maintenance of records of all business transacted at meetings of the Board and the submission of copies of such records to the Central Government;

(*f*) the conditions subject to which, and the mode in which, contracts may be made by or on behalf of the Board;

(*g*) the preparation of budget estimate of the receipts and expenditure of the Board and the authority by which such estimates shall be sanctioned;

(*h*) the powers of the Board and the Executive Committee and the Chairman, in regard to the incurring of expenditure; and the re-appropriation of estimated savings in any budget head to another such head;

(*i*) the conditions subject to which the Board may incur expenditure;

(*j*) the conditions subject to which the Board may borrow;

(*k*) the form and the manner in which accounts should be kept by the Board;

(*l*) the basis on which the export quota of a tea estate or a sub-division of a tea estate shall be determined;

(*m*) the conditions subject to which export quota, export licences and special export licences shall be transferable ;

(*n*) the conditions subject to which permits for the planting of tea on land not carrying tea shall be granted;

(*o*) the collection of any information or statistics in respect of the tea industry and the tea trade;

(*p*) the fees to be levied in respect of licences, permits and permissions issued under this Act;

(*q*) the procedure for the grant or issue of licences, permits and permissions under this Act, the time within which such licences, permits or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such * inquiry in regard thereto as may be necessary in the circumstances;

(*r*) the form of application for licences, permits or permissions under this Act;

(*s*) the manner in which a broker or a dealer in tea waste or a manufacturer shall be licensed under this Act and the levy of fees in respect of such licence;

(*t*) the matters which may be taken into account in the granting or issuing of any licence, permit or permission under this Act including in particular the previous consultation with the Central Government by the Board in regard to the grant or issue of any such licences, permits or permissions;

(*u*) the conditions which may be included in any licences, permits or permissions;

(*v*) the returns to be furnished by owners of tea estates, or sub-divisions thereof, manufacturers, dealers and brokers relating to the production, manufacture, stock, sale and export of tea and tea waste and the form and manner in which such returns are to be furnished;

(*w*) the fees to be charged for granting certified copies of accounts of quotas;

(*x*) any other fee that may be necessary for the Board to levy in order to determine or redetermine the basis on which export quota may be fixed;

(*y*) any other matter which is to be or may be prescribed.

(*3*) All rules under this Act shall, as soon as they are made, be laid before both Houses of Parliament.

50. Power of Board to make by-laws.—(*1*) The Board may make by-laws consistent with this Act and the rules made thereunder, to provide for—

(*a*) the dates, times and places of its meetings and of the meetings of the Executive and other Committees and quorum for such meetings, and the procedure thereat;

(*b*) the delegation of powers and duties to the Executive or any other Committee, or to its Chairman, Vice-Chairman, Secretary or any other of its officers;

(*c*) the travelling allowances of members and of members of Committees;

(*d*) the appointment, promotion and dismissal of its officers and other employees other than those appointed by the Central Government and the creation and abolition of their posts;

(*e*) the conditions of service of its officers and other employees other than those appointed by the Central Government, including their pay, leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances and the establishment and maintenance of a provident fund for them;

(*f*) the maintenance of its accounts;

(*g*) the persons by whom, and the manner in which payments, deposits and investments may be made on its behalf;

(*h*) the custody of moneys required for its current expenditure and the investment of moneys not so required;

(*i*) the preparation of statements showing the sums allotted to Departments of the Central and State Governments and other institutions.

(*2*) No by-law shall take effect until it has been confirmed by the Central Government and published in the Official Gazette, and the Central Government, in confirming a by-law may make any change therein which appears to be necessary.

(*3*) The Central Government may, by notification in the Official Gazette, cancel any by-law which it has confirmed and thereupon the by-law shall cease to have effect.

51. Repeals and savings.—(*1*) The Indian Tea Control Act, 1938 (VIII of 1938) and the Central Tea Board Act, 1949 (XIII of 1949) are hereby repealed.

(*2*) All moneys and other property and all rights and interests, of whatever kind, owned by, vested in, used, enjoyed or possessed by, or held in trust by or for, the Indian Tea Licensing Committee constituted under the Indian Tea Control Act, 1938, and the Central Tea Board constituted under the Central Tea Board Act, 1949, as well as all liabilities legally subsisting against that Committee or that Board shall pass to the Board with effect from the commencement of this Act.

(*3*) All officers and other employees of the Indian Tea Licensing Committee and the Central Tea Board who hold office as such immediately before the commencement of this Act shall be deemed to have been appointed as officers or other employees of the Board with effect from the commencement of this Act and, notwithstanding anything contained in any contract of service entered into by any such officer or other employee with the Indian Tea Licensing Committee or the Central Tea Board, shall

be entitled to such pay and allowances and to such conditions of service in respect of other matters as may be determined by the Board with the approval of the Central Government.

(4) Any proceedings taken by the Indian Tea Licensing Committee or the Central Tea Board before the commencement of this Act may be continued by the Board after such commencement.

(5) Until action in that behalf is otherwise taken under the corresponding provisions of this Act or the rules made thereunder, all licences, permits and permissions issued or granted, all export quotas allotted and all fees fixed under the provisions of the Indian Tea Control Act, 1938, shall, unless inconsistent with the provisions of this Act, be deemed to have been issued, granted, allotted or fixed under the corresponding provisions of this Act and the rules made thereunder.

(6) Any offence punishable under the Indian Tea Control Act, 1938, or the Central Tea Board Act, 1949, shall be punishable and may be dealt with as if it were an offence punishable under the corresponding provisions of this Act.

(7) Any other thing or action done or taken before the commencement of this Act by the Indian Tea Licensing Committee or the Central Tea Board shall so long as it is not inconsistent with any of the provisions of this Act, be as valid and effectual as if it had been done or taken by the Board after the commencement of this Act.

(8) For the removal of doubts, it is hereby declared that the provisions contained in sub-sections (2) to (7) inclusive shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897 (X of 1897).

(9) If any difficulty arises in giving effect to any of the provisions of this Act, the Central Government may as occasion may arise, by order, do anything which appears to be necessary for the purpose of removing the difficulty.

HOUSE OF THE PEOPLE

Report of the Select Committee on the Bill to provide for the control by the Union of the tea industry, and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India.

(*As amended by the Select Committee*)

GIPD—LAD—107 PS—30-1-53 -3.)